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Food and Agricultural Import Regulations and Standards

Interim Rules and Regulations for Tariff Rate Quota 2002

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Report Highlights:

This report is an UNOFFICIAL translation of the Interim Measures for the Tariff Rate Quota Rules and Regulations. Exporters should carefully discuss regulations and their application with Chinese importers to ensure their interpretation of the regulation is accurate.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
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This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Beijing, People's Republic of China for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Summary

The following is an UNOFFICIAL translation of China's Interim Rules and Regulations for Agricultural Imports Tariff Rate Quota (TRQ) as authored by the State Development and Planning Commission (SDPC). This document also contains four appendices. The first appendix lists the authorizing agencies approved by the SDPC. The second and third appendix are Certificate A and B (application forms for two categories of trade). The final appendix is the Notice on Tariff Quota Allocation for Agricultural Products.

Interim Rules and Regulations for Agricultural Imports Tariff Rate Quota

Chapter One: General

Article 1. These regulations are established in accordance with the Foreign Trade Laws of the People's Republic of China and the Administration Regulations on Importation and Exportation of Goods of the People's Republic of China, in order to effectively facilitate the administration of TRQs for imported agricultural products and to establish a system that is uniform, fair, transparent, predictable, and non-discriminatory.

Article 2. During the calendar year, based on the TRQ amount that China committed in the tariff reduction tables of China's WTO accession documents, the state shall determine the annual quantities of agricultural imports for the market through the administration of tariff quotas. Within quota tariffs apply to imports within the specified quota and outside quota tariffs apply to imports exceeding the specified quota. Relevant regulations apply to imports with a quantity that is greater or lower than what is governed in the contract.

Article 3. Imported agricultural products subject to the administration of tariff quotas are wheat, corn, rice, soybean oil, rape oil, palm oil, sugar, cotton, wool, and wool tops. Detailed varieties and/or tariff items will be announced separately.

Article 4. TRQs for wheat, corn, rice, soybean oil, rape oil, palm oil, sugar, and cotton are divided into two categories; state trade and non-state trade. TRQs for state trade shall be used by state owned trading enterprises TRQs for non-state trade shall be imported either by state owned trading companies or non-state owned companies that have trading rights. End-users with trading rights granted also can import directly. Importation of wool and wool tops shall be conducted by designated companies in accordance with the Administration Measures on designated trade of importing goods.

Article 5. Tariff quotas for agricultural imports are global quotas.

Article 6. Goods, as in Article 3, that are imported through any trade pattern are all subject to the administration of within

quota tariffs.

Article 7. Tariff quotas for agricultural imports are centrally governed by the SDPC.

Article 8. Authorizing agencies entrusted by SDPC are responsible for the following:

1. To receive applications and pass on them to SDPC;
2. To receive inquiries and convey them to SDPC;
3. To verify applications and assure they meet the standards;
4. To inform the applicant any inadequacy of his/her application, and give the applicant opportunities for him/her to eliminate it;
5. To inform end users the SDPC's decision on TRQ allocation and reallocation, and to provide information on TRQ allocation and reallocation.
6. To issue Agricultural Product Tariff Quota Certificates to approved applicants.

The name list of authorizing agencies entrusted by SDPC (hereafter referred to as "authorizing agencies") is in appendix one.

Article 9. Agricultural Product Tariff Quota Certificates are designated A and B. Certificate A (see Appendix Two) applies to imports through general trade, barter trade, border small scale trade, aid and charities (excluding processing trade). Certificate B (see Appendix Three) applies to processing trade.

Imported products that enter bonded areas and export processing zones are exempt from applying for Agricultural Product Tariff Quota Certificates.

Chapter Two: Application

Article 10. The time for accepting applications for tariff quotas for agricultural imports through general trade is from 15 October to 31 October every year (except for those that are contract based and on a first-come first-serve basis). A month prior to this, the SDPC shall publish in the *China Economic Herald*, the *International Business Daily*, the *China Economic Information Network* (<http://www.cei.gov.cn>), and on the SDPC website (<http://www.sdpc.gov.cn>) the total tariff quotas for each kind of agricultural product for the following year and the specific requirements for applicants. At the same time, the State Council Tariff Commission shall publish tax items on tariff quota products and levies on within tariff and outside tariff quotas.

Article 11. Authorizing agencies shall accept tariff quota applications from within their designated jurisdiction.

Article 12. Authorizing agencies shall review the applications and related support material according to the published requirements and will forward eligible applications to the SDPC for approval prior to 30 November.

Article 13. Applicants who wish to import within tariff-quota products through processing trade need to apply for a Processing Trade Business License at the Ministry of Foreign Trade and Economic Cooperation. This license is required before applying for within tariff quotas.

Chapter Three: Allocation

Article 14. TRQs for imports through general trade shall be allocated according to the number of applications, past

performance, production capacity, applicable business criteria, or be based on a first-come first-serve basis. The minimum quota amount will be limited to appropriate commercial shipping volumes for each kind of product.

Article 15. Applicants in processing trade are required to have a Processing Trade Business License issued by the Ministry of Foreign Trade and Economic Cooperation in order to apply for quota allocation.

Article 16. The SDPC shall inform the end user (excluding those in processing trade and those whose quota assignment is contract-based and first-come first-serve) of the quota for imports through general trade by an official "Notice" (see Appendix Four) before 1 January each year. Imported products that need to be handled through a state-owned trading enterprise will be specified in the Notice.

Article 17. The end user shall apply for an Agricultural Product Tariff Quota Certificate (A) at the authorizing agency using the notice issued by the SDPC (except for those that are contract based and on a first-come first-serve basis) and the signed import contracts. Processing trade end users shall apply for Agricultural Product Tariff Quota Certificate (B) at the authorizing agency by using a Processing Trade Business License.

The authorizing agency must issue an Agricultural Product Tariff Quota Certificate (A) or an Agricultural Product Tariff Quota Certificate (B) within five working days. The maximum time needed, in cases of exception, should be no more than ten working days. Both certificates shall bear the "Special Stamp for Tariff Quotas".

The authorizing agencies shall send a timely copy of actual allocation of the Certificates to the relevant departments of MOFTEC.

Chapter Four: Duration

Article 18. Tariff quotas go into effect on 1 January each year and are valid throughout the calendar year. The Agricultural Product Tariff Quota Certificate (A) goes into effect from the date of issuance through December 31 of that year. The duration for the Agricultural Product Tariff Quota Certificates on a first-come first-serve basis shall be determined in accordance with the released implementing rules.

The Processing Business License determines duration of the Agricultural Product Tariff Quota Certificate B. An extension shall be granted within the time limit prescribed by the Processing Business License, if it is necessary.

If the date of validity prescribed in the Processing Business License goes beyond the year, the quota holder shall go to the authorizing agency to obtain Certificate B for the coming year.

Article 19. If tariff quota agricultural products depart the port of origin prior to 31 December in the current year and arrive at the destination in the following year, the importer must take the Agricultural Product Tariff Quota Certificate and related shipping invoice to the authorizing agency for an extension. Upon verification, the authorizing agency may grant an extension to the Certificate but no longer than 15 February of the following year.

Chapter Five: Implementation

Article 20. In accordance with government regulations on importing products, the end user shall sign import contracts

himself or have them handled through an agency.

Article 21. Enterprises in processing trade shall provide the Processing Business License and Certificate B to Customs for records. Products are not allowed for sale on domestic markets if they are prescribed for re-exports.

For agricultural products imported for processing trade but unable to be exported within prescribed period of time, enterprises shall go through the contract cancellation procedure within 30 days. Customs shall assess the waived levy using outside tariff quota rates.

Article 22. Agricultural Product Tariff Quota Certificate (A and B) shall institute a one-certificate-for-multi-shipment system. That is, if an end user signs a contract that needs to be imported in several shipments, it needs to provide to Customs the Certificate to go through Custom clearance. If more than 12 shipments are needed in one year, a new Certificate shall be obtained.

Article 23. Customs shall clear and supervise products within the tariff quota against the current regulations if the products are subject to bonded warehouse entry and exit, bonded area, and export processing zones.

Article 24. Within 20 days from commodities clearing Customs, the end user shall return a copy of the first page of the customs-stamped Agricultural Product Tariff Quota Certificate (A) or Agricultural Product Tariff Quota Certificate (B) and a copy of the Customs declaration form to the authorizing agency that issued the Certificates.

Chapter Six: Reallocation

Article 25. If the end user has not signed contracts for his/her allocated state-traded quota before 15 August of the current year, he/she can entrust non-state trading enterprises to import upon approval from SDPC. The end users with trading rights can undertake direct imports, also.

Article 26. If the end user having TRQ for general trade (Certificate A) cannot utilize the entire specified quota in the current year of the import contract, or his/her contracts can not be completed, he/she shall return the remainder and the original copy of the Notice to the authorizing agency that issued the certificate before 15 September.

If the end user having Certificate B cannot import or import in full within the period of validity, he/she shall return the Certificate B to the authorizing agency that issued the certificate. The agency shall collect and forward all the returned papers to SDPC for quota reallocation.

Article 27. Applications for tariff quotas through reallocation must be forwarded by the authorizing agency to the SDPC. Such applications are accepted from 1 September to 15 September (except for those that are contract based and on a first-come first-serve basis and processing trade). The SDPC shall announce the specific requirements for applicants in the *China Economic Herald*, the *International Business Daily*, the *China Economic Information Network* (<http://www.cei.gov.cn>), and on the SDPC website <http://www.sdpc.gov.cn> one month prior to accepting applications.

Article 28. The end user who has not utilized all the specified tariff quota and has returned the unused portion and the original Notice prior to 15 September will not be eligible again for tariff quotas through reallocation.

Article 29. The SDPC shall reallocate unused tariff quotas to end users (excluding those that are contract based and on a first-come first-serve basis and processing trade) before 30 September. The reallocated tariff quotas will be allocated on a first-come first-serve basis in accordance with the published requirements. Processing trade enterprises (excluding bonded areas and export processing zones) may receive the reallocated quotas against the Processing Trade Business License on a first-come first-serve basis.

Article 30. The end user shall be notified of the reallocated tariff quotas (excluding those that are contract based, on a first-come-first-serve basis, and processing trade) through a Notice issued by the SDPC. The end user shall proceed with the application according to provisions in Articles 17, 18, 19, 20, and 22.

Chapter Seven: Penalties

Article 31. If a processing enterprise sells its imported raw material or processed products on the domestic market without approval, it shall be treated as a smuggler by Customs.

Article 32. Whoever forges, alters, or buys and sells the Agricultural product Tariff Quota Certificates shall be subject to criminal charges in accordance with Criminal Law provisions concerning illegal marketing, forging, altering, buying and selling official documents, certificates or stamps. If an end user is engaged in the activities mentioned above, SDPC shall not accept his/her TRQ application for a period of two years.

Article 33. If an end user forges the import contract and other documents to obtain the Agricultural Product Tariff Quota Certificate by cheating, his/her Certificate shall be confiscated in accordance with the appropriate laws. SDPC shall not accept his/her TRQ application for a period of two years.

Article 34. If an end user holding Certificate A violates the provisions in Article 26 of the Regulations, and is unable to fully utilize the allocated quota, and does not return the unused portion to the authorizing agency before 15 September, his/her tariff quota in the following year shall be reduced in proportion to the unused quota share.

If an end user holding a Certificate B violates the provisions in Article 26 of the Regulations, and is unable to fully utilize the allocated quota, and does not return the unused portion to the authorizing agency before the due date prescribed in Certificate B, his/her tariff quota in the following year shall be reduced in proportion to the unused quota share.

Article 35. If an end user holding Certificate A is unable to fully utilize the allocated quota for two consecutive years but has returned the unused quota to the authorizing agency before 15 September, his/her quota in the following year shall be reduced in proportion to the unused quotas in the immediate previous year.

Article 36. If an end user violates provisions, as referred to in Article 24 of the Regulations, and does not return the first page (the page for the consignee of commodities for customs clearance) of the customs-stamped Agricultural Product Tariff Quota Certificate (A) or (B) on time to the authorizing agency, he/she shall be considered as unable to fully utilize the tariff quota share. Consequently, his/her quota in the following year shall be reduced accordingly.

Article 37. Smuggled imports of products subject to tariff quotas shall be levied at the rate for outside tariff quotas. In addition, smugglers will be penalized in accordance with appropriate laws.

Chapter Eight: Supplementary Provisions

Article 38. Inquiries on quota allocation and reallocation shall be sent, in writing, to the SDPC or its authorizing agencies. Inquiries shall receive a reply within ten working days.

Article 39. The Agricultural Product Tariff Quota Certificate (A) or (B) and the Special Stamp for Import Tariff Quotas shall be produced under the central supervision of the SDPC.

Article 40. The Agricultural Product Tariff Quota Certificate shall be printed by computer. The content of the Certificate shall not be altered.

If an end user needs to amend the commodity code, price, origin country (region), and destination for the Agricultural Product Tariff Quota Certificate (A), he/she shall bring the Certificate to the authorizing agency to apply for amendments. The agency shall, within five days, issue a new certificate to the end user, stamp on it the Special Stamp for Import Tariff Quotas, and reclaim the original certificate.

Such items as the importer, the processing enterprise, the validity date of the Certificate, the commodity name and quantity in the Agricultural Product Tariff Quota Certificate (B) shall not be amended.

Article 41. Foreign exchange used for importing tariff quota products shall be handled in accordance with applicable state regulations.

Article 42. The state trading enterprises specified in the Regulations refer to those privileged in the import business of certain products, and legally authorized by the government. The list of state trading enterprises shall be verified, determined, and announced by the Ministry of Foreign Trade and Economic Cooperation.

Article 43. The end users specified in the Regulations refer to the manufacturer, trading company, wholesalers, and retailers that have received tariff quotas for agricultural products directly through the application process.

Appendix One

List of Authorizing Agencies Approved by the State Development Planning Commission

Development Planning Commission of Beijing City
Development Planning Commission of Tianjin City
Development Planning Commission of Hebei Province
Development Planning Commission of Shanxi Province
Development Planning Commission of Inner Mongola Autonomous Region
Development Planning Commission of Liaoning Province
Development Planning Commission of Dalian City
Development Planning Commission of Jilin Province
Development Planning Commission of Helongjiang Province
Development Planning Commission of Shanghai City
Development Planning Commission of Jiangsu Province
Development Planning Commission of Zhejiang Province
Development Planning Commission of Ningbo City
Development Planning Commission of Anhui Province
Development Planning Commission of Fujian Province
Development Planning Commission of Xiamen City
Development Planning Commission of Jiangxi Province
Development Planning Commission of Shandong Province
Development Planning Commission of Qingdao City
Development Planning Commission of Henan Province
Development Planning Commission of Hubei Province
Development Planning Commission of Hunan Province
Development Planning Commission of Guangdong Province
Development Planning Bureau of Shenzhen City
Development Planning Commission of Guangxi Zhuang Autonomous Region
Development Planning Commission of Hainan Province
Development Planning Commission of Chongqing City
Development Planning Commission of Sichuan Province
Development Planning Commission of Guizhou Province
Development Planning Commission of Yunnan Province
Development Planning Commission of Tibet Autonomous Region
Development Planning Commission of Shaanxi Province
Development Planning Commission of Gansu Province
Development Planning Commission of Qinghai Province
Development Planning Commission of Ningxia Hui Autonomous Region
Development Planning Commission of Xinjiang Uygur Autonomous Region
Development Planning Commission of Xinjiang Production and Construction Corps

Appendix Two

Agricultural Product Tariff Quota Certificate (A)

(Items to be completed on Certificate A)

1. Importer
2. Consignee
3. No. of Certificate of Tariff Quota
4. Expiration Date for Tariff Quota
5. Mode of Trade
6. No. of Notice
7. Port of Customs Clearance
8. Country (Area) of Export
9. Country (Area) of Origin
10. No. of Contract
11. Commodity Name Commodity Code
12. Specifications and Model
13. Unit
14. Quantity
15. Unit Price
16. Sub-total
17. Amount in USD
18. Grand Total
19. Remarks
20. Stamp of Certificate Issuing Agency

Signature of Official in Charge

21. Date of Issuance

Printed under the supervision of the State Development Planning Commission

Notes:

1. First page (original page) is for the consignee of commodities for customs clearance. The reverse provides space for the customs officers to sign.
2. Second page is for the Customs record to verify against the original.
3. Third page is for the MOFTEC record.
4. Fourth page is for the agency that issues the certificate record.

Appendix Three

Agricultural Product Tariff Quota Certificate (B)

(Items to be completed on Certificate B)

1. Importer
2. Processing Enterprise
3. No. of Certificate of Tariff Quota
4. Expiration Date for Tariff Quota
5. No. of the Business License for Processing Trade
6. Type of Processing Trade
7. Port of Customs Clearance
8. Country (Area) of Origin
9. Commodity Name Commodity Code
10. Specifications and Model
11. Unit
12. Quantity
13. Unit Price
14. Sub-total
15. Amount in USD
16. Grand Total
17. Remarks
18. Stamp of Authorizing Agency

Signature of Official in Charge

19. Date of Issuance

Printed under the supervision of the State Development Planning Commission

Notes:

1. First page (original page) is for the consignee of commodities for customs clearance. The reverse provides space for the customs officers to sign.
2. Second page is for the Customs record to verify against the original.
3. Third page is for the MOFTEC record.
4. Fourth page is for the agency that issues the certificate record.

Appendix Four

Notice on Tariff Quota Allocation for Agricultural Products

(Items to be completed on the Notice of Tariff Quota Allocation for Agricultural Products)

1. Area (Department)
2. Number of the Notice
3. Name of End User
4. Expiration Date of the Notice
5. Mode of Trade
6. Name of Commodity
7. Allocated quota
8. Including Sate trade
9. Date of Notice Issuance
10. Remarks
11. Stamp

Signature of Official in Charge

12-23. Filled and Stamped by the Importer (1-12)

Customs Code of the Importer

Contract Number

Signing Date of Contract

Quantity per Contract

Total

Total in USD

Unit Price

Commodity Number

Country (Area) of Origin

Country (Area) of Export

Date of Shipment

Port of Customs Clearance

Printed under the supervision of the State Development Planning Commission (protected by anti-fraud marking)